

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

GILBERTO LOPEZ-MONJARAZ,

Defendant.

3:09-CR-00046-LRH-RAM

ORDER

Before the Court is Defendant's Motion Pursuant to 28 U.S.C. § 2255(f)(3) to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody. Doc. #64.¹ The United States filed a Response (Doc. #66), to which Defendant did not reply.

This is Defendant's second § 2255 motion asserting ineffective assistance of counsel for failure to challenge his sentence under *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Because Defendant did not obtain authorization from the United States Court of Appeals for the Ninth Circuit to consider a successive § 2255 motion, the Court is without jurisdiction to consider it. *See United States v. Allen*, 157 F.3d 661, 664 (9th Cir. 1998) (failure to request the requisite authorization to file a second or successive § 2255 motion deprives the district court of jurisdiction); *see also* 28 U.S.C. § 2255(h). Accordingly, Defendant's Motion is denied.


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¹ Refers to the Court's docket number.

1 IT IS THEREFORE ORDERED that Defendant's Motion Pursuant to 28 U.S.C. §
2 2255(f)(3) to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. #64) is
3 DENIED.

4 IT IS SO ORDERED.

5 DATED this 15th day of September, 2014.


LARRY R. HICKS
UNITED STATES DISTRICT JUDGE